

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

Criminal Action No. 5:97CR53
(STAMP)

GLENN ALBERT STEWART, JR.,

Defendant.

**MEMORANDUM OPINION AND ORDER DENYING
DEFENDANT'S MOTION TO EXPAND RECORD**

The defendant, proceeding pro se,¹ filed a motion requesting that this Court reduce his sentence pursuant to the United States Sentencing Commission's amendment to § 4A1.2 of the United States Sentencing Guidelines ("U.S.S.G."). This Court then directed the government to file a response. The government filed a response in opposition. Before the defendant filed his reply, however, this Court disposed of the defendant's motion to reduce sentence.

The defendant then filed a reply before receiving this Court's order denying his motion to reduce sentence. He has now filed a notice of appeal with the United States Court of Appeals for the Fourth Circuit. Further, he has filed a motion to expand record with this Court. The motion to expand requests that this Court reconsider its denial of the defendant's motion to reduce sentence as the defendant asserts that his reply bolsters his claims and

¹"Pro se" describes a person who represents himself in a court proceeding without the assistance of a lawyer. Black's Law Dictionary 1416 (10th ed. 2014).

with those arguments this Court would come to a different conclusion regarding his motion to reduce sentence. Given the relief requested, this Court will consider the defendant's motion as a motion for reconsideration.

As an initial matter, this Court may hear the defendant's motion, despite his appeal, pursuant to Federal Rule of Criminal Procedure 37. Further, this Court finds that the defendant's reply does not change the analysis used by this Court in its order denying the defendant's motion for a sentence reduction. ECF No. 128. As such, the defendant's motion for reconsideration is DENIED.

IT IS SO ORDERED.

The Clerk is DIRECTED to transmit a copy of this memorandum opinion and order to counsel of record herein.

DATED: September 2, 2014

/s/ Frederick P. Stamp, Jr.
FREDERICK P. STAMP, JR.
UNITED STATES DISTRICT JUDGE